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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/013,099	12/06/2001	Nicholas A. Verini	7030.02.03	9555

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EXAMINER

CHAMBERS, TROY

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 06/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/013,099

Applicant(s)

VERINI, NICHOLAS A.

Examiner

Troy Chambers

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 4,6-8 and 11-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 4, 6, 7, 8 and 11-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 12.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2, 3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 5878736 issued to Lotuaco.
2. With respect to claim 1, Lotuaco discloses a weapon for discharging a non-lethal paintball B, comprising: a housing including a handle 02 and a projectile storage cylinder 05 (Ball feed port 5 shown in Fig. 2 acts as a storage cylinder when the gun is not being fired by holding at least 3 paintballs 3); a discharge barrel 01 having an open muzzle end and a closed base end proximate cylinder 05 (Fig. 2); a projectile loading chamber (col. 2, ll. 45-47, described as a "breech") disposed at said barrel base end and communicating with storage cylinder 5; an enclosure 12 for receiving a removable pressurized gas storage source; a gas discharge cell 15A communicating with a gas storage source (col. 2, ll. 55-57) and adapted to receive a charge of compressed gas for selective projectile discharge; a hammer 35 and striker 38 assembly for selectively

releasing a charge of compressed gas from said gas discharge cell 15A into said loading chamber; and, a valve assembly 7 associated with said discharge cell 15a and adapted (via adjustment screw 7B) to permit selective variance of compressed gas charge pressure.

2. With respect to claim 2, refer to col. 2, ll. 50-52.

3. With respect to claim 3, "up to 20 charges" includes any amount from 0 to 20.

The constant gas source 9 (col. 2, ll. 37-38) has at least one charge. Also, the source is disclosed as being "constant" which suggests an unlimited supply of gas.

4. With respect to claim 10, refer to col. 3, ll. 63 to col. 4, ll. 26.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 5878736 issued to Lotuaco in view of any one of U.S. 6474325 issued to Rice et al. ("Rice"), US 2004/0074486 issued to Schavone, U.S. 6276353 issued to Briggs et al. ("Briggs") and U.S. 6698414 issued to Menow et al. ("Menow"). Lotuaco discloses a weapon for discharging high velocity projectiles as described above. However, Lotuaco does not disclose expressly a gas pressure gauge as claimed by the applicant. Rice, Schavone, Briggs and Menow disclose pressure gauges 1, 30, 51 and 12, respectively.

At the time of the invention, one of ordinary skill in the art would have found it obvious to provide the weapon of Lotuaco with the gauges of Rice, Schavone, Briggs and Menow. The suggestion/motivation for doing so would have been to allow the user to physically view the amount of pressure available at any given moment to determine speed or availability of gas.

5. Claims 1, 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 3788298 issued to Hale in view of Lotuaco.

6. With respect to claim 1, Hale discloses a weapon 10 for discharging high velocity, non-lethal projectiles comprising: a housing including a handle 12 and a projectile storage cylinder 20; a discharge barrel 18 having an open muzzle end and a closed base end proximate cylinder 20 (Fig. 1); a projectile loading chamber 104 disposed at said barrel base end and communicating with storage cylinder 20; an enclosure 40 for receiving a removable pressurized gas storage source; a gas discharge cell 92 communicating with a gas storage source 82 and adapted to receive a charge of compressed gas for selective projectile discharge; a hammer 108 and striker 102 assembly for selectively releasing a charge of compressed gas from said gas discharge cell 92 into said loading chamber; and, a valve assembly 16 associated with said discharge cell 92. However, the valve assembly is not disclosed expressly as being adapted to permit selective variance of compressed gas charge pressure released by the hammer assembly to correspondingly vary the velocity and impact of the projectile. Lotuaco discloses such a feature as described above (via adjustment screw 7B). At the time of the invention, one of ordinary skill in the art would have found

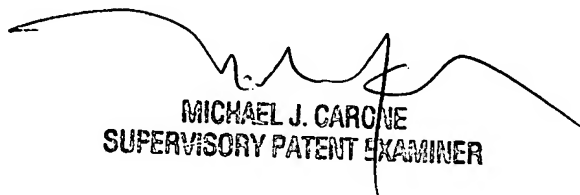
it obvious to provide the weapon of Hale with the adjustment mechanism of Lotuaco. The suggestion/motivation for doing so would have been to allow for adjustment of gas pressure and, therefore, projectile velocity.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited on form PTO-892 are cited as of interest to show similar non-lethal weapons.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (703) 308-5870. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (703) 306-4198.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

  
MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER